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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/782,306	(02/14/2001	Uwe Wenzel	51202	2453	
26474	7590	10/01/2002				
KEIL & W			EXAMINER			
1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036				KHARE, I	KHARE, DEVESH	
				ART UNIT	PAPER NUMBER	
				1623		
				DATE MAILED: 10/01/2002	- 3	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Application No. Applicant(s) Office Action Summary Osy762,306 WeNZEL ET AL. Examiner Devesh Khare 1623 Devesh Khare 1623 Art Unit 1623 Art								
Examiner Devesh Khare - The MAILING DATE of this communication appears on the c ver sheet with the correspondence address Perl of f r R ply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE f MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Examination of interning the available under the provisions of 3 °C CR1 1.05(to). In no ovent, however, may a right be firrely filled - If the period for right is equilibrium to the provision of 3 °C CR1 1.05(to). In no ovent, however, may a right be firrely filled - If the period from its period above, he maximum statutory prefet will apply and valid equilibrium of ethic, (20) quay will be considered timely. - If the period for right is equilibrium to the statutory prefet will apply and valid equilibrium of ethic, (20) quay will be considered timely. - If the period for right is equilibrium to the statutory prefet will apply and valid equilibrium of ethic, (20) quay will be considered timely. - If the period for right is equilibrium to the statutory prefet will apply and valid equilibrium of ethic, (20) quay will be considered timely. - If the period for right is equilibrium. - If the period for right is equilibrium. - Any right precised by the Office intered then three modilia date of this communication, even if timely filled, may reduce any statutory. - Any right precise by the Office intered then then remove the then then and the communication. - Any right precise by the Office intered then then remove the then then and the communication. - The analysis of the precise of the priod to the communication is non-final. - The Responsive to communication of railowence except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparted Quayle, 1935 C.D. 11, 453 O.G. 213. - Disposition of Claims - All Claim (s) 1.12 Is/are pending in the application. - 4a) Of the above claim(s) is are required in the application. - 4b) Claim (s) 1.12 Is/are explicated to restrict on a prefet of the priod the prefet of		Application No.	Applicant(s)					
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be waited used the provision of 3 CFR 1.15(6). In no event, however, may a reply be timely filed after 5X (5) MONTHS from the maining date of this communication. Fairback (5) MONTHS from the maining date of this communication. Fairback (6) MONTHS from the maining date of this communication. Fairback (7) MONTHS from the maining date of this communication. Fairback for reply is specified before the hirak mortism attentory period will apply and will expire \$X, (6) MONTHS from the maining date of this communication. Fairback for reply within the set of extended period for reply will, by a stante, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the fortice size than the normal safe for a mailing date of this communication, even if timely fried, may reduce any								
1 Responsive to communication(s) filed on 2a This action is FINAL. 2b This action is non-final. 3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 Claim(s) 1-12 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6 Claim(s) is/are rejected. 7 Claim(s) is/are objected to. 8 Claim(s) 1-12 are subject to restriction and/or election requirement. Application Papers 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b objected to by the Examiner.	A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any							
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Application/Control Number: 09/782,306

Art Unit: 1623

DETAILED ACTION

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1 and 2 are, drawn to compositions selected from the group flavones (composed of a flavonoid skeleton and sugar substituent), classified in class 424, subclass various.
 - II. Claims 3 and 4 are, drawn to a method for inhibiting COX-2 biosynthesis or COX-2 biosynthesis and NFχB biosynthesis, classified in class 514, subclass various.
 - III. Claims 5-7 are, drawn to a method of treating inflammation, rheumatoid arthritis and osteoarthritis, classified in class 514, subclass various.
 - IV. Claims 8-12, drawn to a food or nutritional substance, classified in class426, subclass various.

The inventions are distinct, each from the other because:

Inventions I, IV and II-III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP, 806.05(h)). In the instant case the process for using the product can be practiced with another materially different product e.g. through a herbal composition described by

Newmark et al. (U.S. Patent 6,264,995) which utilizes these compositions for their anti-inflammation activity in bones and joints by inhibiting the enzyme COX-2.

Inventions II and III are unrelated to one another. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP 806.04, MPEP 808.01). In the instant case the different method of use inventions, while using similar compositions have different epidemiologies and different modes/routes of action.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devesh Khare whose telephone number is (703)605-1199. The examiner can normally be reached on Monday to Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, Supervisory Patent Examiner, Art Unit 1623 can be reached at 703-308-4624. The official fax phone numbers for the organization where this application or proceeding is assigned is (703)308-4556 or 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1235.

Devesh Khare, Ph.D.,JD(3Y).

Art Unit 1623

September 26, 2002

March

SAMUEL BARTS
PRIMARY EXAMINER
GROUP 1200